

Content Regulation on Social Networking Website: A Study With Reference To Article 19 of the Constitution of India

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Abstract

A social networking site is a global platform for communication and expression in the territorial world. One face of social networking sites is very innovative and beautiful but the other hand the second face of the social networking site is very dangerous and harmful to not only the uses of it but also the whole country. So it is very important to identify what type of Content which may be proved dangerous and harmful and need to be regulated. It is very important that any content which identified as a harmful content comes within the domain of restriction over freedom of speech and expression under Article 19(2) of Constitution of India. This paper provides the overview of the problem on social networking sites relating to content related issues and also trying to suggest that what type of mechanism is need to adapt by the government and regulating authorities to deal with that type of content. This paper also explore the mechanism and process for Balancing freedom of expression with various right is further complicated by the challenges of fast paced and changing regulatory digital environment. By highlighting these challenges and questioning the application of existing frameworks we aim to contribute to further promoting and strengthening the right to freedom of expression, in India

Keywords: Social Networking Site, Freedom of Speech and Expression, Constitution of India

Introduction

Freedom of Expression is one of the most universally recognized and prominent rights in all democratic legal systems. The right to impart and receive information has long been a cornerstone of human rights law, and of democratic theory.¹ On 26th August 1789, the architects of the French Revolution² issued the Declaration of the Rights of Man, which secured the right of citizens to communicate ideas and opinions freely, and which right has been retained virtually unchanged throughout the history of democracy. Almost exactly a month later, the United States, declared free speech to be fundamental to its nascent political structure by amending its recently adopted Constitution to protect that right explicitly³. Over a century and a half later, the United Nations' under the Art.19 of Universal Declaration of Human Rights (hereinafter UDHR)⁴ 1948 recognized the right to free speech. Similarly, Art.19 Of International Covenant on Civil and Political Rights (hereinafter ICCPR) and Art.10 of European Convention on Human Rights have upheld the significance and importance of freedom of expression. The term freedom of expression itself had existed since ancient times, dating back at least to the Greek Athenian era more than 2400 years ago⁵.

In India Freedom of speech and expression is guaranteed under art. 19(1)(a) of the Constitution of India. ICCPR binds India in international law and right to free speech is recognized through Protection of Human Rights Act, 1993 apart from the Constitutional guarantee. The Act defines human rights under Sec.2 (d) - "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. India being a signatory to ICCPR, the abridgment of free speech can be easily enforced in India.

Objective of Study

The Primary objective of the study was to explore and examine the law relating to Content Regulation on Social Networking Website. The study had the following specific objectives:

1. To find out the mechanism and process for Balancing freedom of expression vis-à-vis content Regulations
2. To explore the various dimension of Freedom of speech and expression over cyber space.
3. To explore the problem of content regulation on cyber space relating to content related issues.
4. To analyses the various mechanism and process for harmonizing freedom of speech and expression at National and International level.

Review of literature

An attempt is made in this study to review available literature on Content Regulation on cyber media as well as various aspects of freedom of speech and expression and fundamental rights in Indian Legal System, with a view to examine the different other aspect of content regulation freedom . However the relevant contribution is briefly present:

M.P.Jain; Indian Constitutional Law, 2018. In this book the discussion was made on various issues such as on various Articles but the main thrust was connoted on the main Articles that is the Right to life and all about the personal rights of an individual as well freedom of speech and expression which are very necessary for the human existence and democracy .

The Information Technology Act, 2000 w.e.f. on 17 October 2000. It is the fundamental law in India dealing with cybercrime and electronic commerce.

Law on The Information Technology, 2018, This book explore the various aspect and control mechanism relating to media and cyber content in India.

Anikar M. Haseloff have published his article on—Cyber Cafes and their Potential as Community Development Tools in India. In this paper research was conducted to identify the problems and potential of Cyber Cafes transformation tools.

Paranjoy, Guha Thakurta, Media Ethics (New Delhi: Oxford University Press, 2012), this book discusses the various dimension relating to media and cyber ethics.

Freedom of Speech and Expression- Meaning & Scope

Article 19(1) (a) of the Constitution of India guarantees to all its citizens the right to freedom of speech and expression and it is a representative right to democracy. The law states that “all citizens shall have the right to freedom of speech and expression”. This right is available only to a citizen of India and not to foreign nationals. As we saw Article 19(1)(a) incorporated to freedom, freedom of speech as well as the freedom to expression also, the word speech meant that anything which communicates by one person to another by mouth and in words either they are in front of each other or far from each.

Freedom of expression is a very broad connotation because expression doesn't limit to words only. it contains everything and every act which has

the power to express something without the use of a single word from the mouth and have the power to reflect some meaning to the mind of those persons who see it, like a message by a painting, by a poster or by cartoons, by dancing. The expression means to express something by any medium. In my opinion, silence is also included in expression because of some time silence much more powerful than words. Under Art.19 (2) “reasonable restriction can be imposed on the exercise of the right for certain purposes. This right is, however, not absolute and it allows Government to frame laws to impose reasonable restrictions in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency and morality and contempt of court, defamation and incitement to an offense. Any limitation on the exercise of the right under Article 19(1) (a) not falling within the four corners of Article 19(2) cannot be valid. However, Article 19(2) of the Constitution provides that this right is not absolute and ‘reasonable restrictions’ may be imposed on the exercise of this right for certain purposes.

The freedom of speech under Article 19(1) (a) includes the right to express one's views and opinions at any issue through any medium, e.g. by words of mouth, writing, printing, picture, film, movie etc. It thus includes the freedom of communication and the right to propagate or publish the opinion. But this right is subject to reasonable restrictions being imposed under Article 19(2). Free expression cannot be equated or confused with a license to make unfounded and irresponsible allegations against the judiciary.⁶ Freedom of Speech and Expression also includes artistic speech as it includes the right to paint, sing, dance, write poetry, literature and are covered by Article 19(1) (a) because the common basic characteristic of all these activities is freedom of speech and expression⁷

The fundamental right to freedom of speech and expression is regarded as one of the most basic elements of a healthy democracy for it allows its citizens to participate fully and effectively in the social and political process of the country. In fact, the freedom of speech and expression gives greater scope and meaning to the citizenship of a person extending the concept from the level of basic existence to giving the person a political and social life.

In the Preamble to the Constitution of India, the people of India declared their solemn resolve to secure to all its citizen liberty of thought and expression. The Constitution affirms the right to freedom of expression, which includes the right to voice one's opinion, the right to seek information and ideas, the right to receive information and the right to impart information. The Indian State is under an obligation to create conditions in which all the citizens can effectively and efficiently enjoy the aforesaid rights. In *Romesh Thappar V.State of Madras*⁸ the Supreme Court of India held that the freedom of speech and expression includes freedom to propagate ideas which is ensured by freedom of circulation of a

publication, as publication is of little value without circulation. *Patanjali Sastri, J.*, rightly observed that-

'Freedom of Speech and of Press leads to the foundation of all democratic organizations, for without free political discussion no public education, so essential for the proper functioning of the process of Government, is possible'

What are Social Media and Social Networking Websites?

Social media comprises primarily internet and mobile phone based tools for sharing and discussing information. It blends technology, telecommunications, and social interaction and provides a platform to communicate through words, picture, film, music⁹. Social media includes web-based and mobile technologies used to turn communication into interactive dialogue.¹⁰

Social media can be defined as any web or mobile based platform that enables an individual or agency to communicate interactively and enables the exchange of user generated content.¹¹ Andreas Kaplan and Michael Haenlein define social media as "a group of internet-based applications that build on the ideological and technological foundations of Web 2.0, and that allow the creation and exchange of user-generated content"¹². "Web 2.0" refers to Internet platforms that allow for interactive participation by users¹³. "User-generated content" is the name for all of the ways in which people may use social media.¹⁴ The Organization for Economic Cooperation and Development (OECD) specifies three criteria for content to be classified as "user-generated."

Social networking website is a type of social media. A social networking website is basically a place where people who have the similar interest in terms of their profession, as well as personal life, can be built an active social life. It helps people to connect with one another on a web-based platform. Here, people like me and you can make our own profile and can decide with whom we want to share our information. At the same time, we will also have access to the other information. Social networking sites are websites which are focused on building online communities of people who have shared interest. They have common themes of information sharing person to person interaction and creation of share and collaborative content. It facilitates opt-in communication leading to enhance information discovery and delivery

Emails and instant messages are the most common method of keeping tabs on one another. But it is not limited to these. We can also share pictures, videos, and audios with one another. Social networking sites allow users to share idea, picture, post, activities, interest, events, with people in their network. New social networking methods were developed by the end of 1990 and many sites began to develop the more advanced feature for user to find and manage friend. Facebook launched in 2004, became the largest social networking web site in the world in early 2000.

Freedom of Speech and Expression and Social Networking Websites/ Internet

The Internet and Social Networking websites have become a vital communications tool through which individuals can exercise their right of freedom of expression and exchange information and ideas. In the past year or so, a growing movement of people around the world has been witnessed who are advocating for change, justice, equality, accountability of the powerful and respect for human rights.¹⁵ In such movements, the Internet and Social networking websites have often played a key role by enabling people to connect and exchange information instantly and by creating a sense of solidarity.

Emphasising the importance of internet, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his Report, which was submitted to the Human Rights Council, stated that the internet has become a key means by which individuals can exercise their right to freedom and expression and hence, internet access is a human right.¹⁶ Report further stressed that States should ensure that internet access is maintained at all times, even during times of political unrest. The States were also reminded of their positive obligation to promote or to facilitate the enjoyment of the right of freedom of expression and the means necessary to exercise this right, including the Internet. The States were also asked to adopt policies to make the Internet widely available, accessible and affordable to all.

The UN Human Rights Committee has also tried to give practical application to freedom of opinion and expression in the radically altered media landscape, the center stage of which is occupied by the internet and mobile communication. Describing new media as a global network to exchange ideas and opinions that do not necessarily rely on the traditional mass media, the Committee stated that the States should take all necessary steps to foster the independence of these new media and also ensure access to them.¹⁷ Moreover, Article 19 of the UDHR and Article 19(2) of the ICCPR also provides for freedom of speech and expression even in the case of internet and social media.

Thus, it is seen that freedom of speech and expression is recognized as a fundamental right in whatever medium it is exercised under the Constitution of India and other international documents. And in the light of the growing use of internet and social networking website as a medium of exercising this right, access to this medium has also been recognized as a fundamental human right.

Medium Distinction: How Does It Affect ARTICLE 19(1) (a)

This the preliminary arguments that were made by the respondent's advocate in *Shreya Singhal* is that the restrictions on freedom of speech and expression on Internet are not covered by Article 19(2), as it is a separate medium altogether. The Supreme Court did not adopt this argument. In order to reject this proposition, the court relied on the case of *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal*.¹⁸

In Cricket Association of Bengal,¹⁹ the apex court held that right to acquire and disseminate information forms part of freedom of speech and expression. The rationale for this holding was that it was the best way to find a trusted model of anything; since it is only through it that the widest possible range of ideas can circulate. Further, the court also held that the acquisition or dissemination of the information need not take place through any specific medium, and that the fundamental right is applicable to any kind of medium: *"The 'right to communicate' includes right to communicate through any media that is available whether print or electronic or video sub advertisement, movies article etc.* Based on this observation in **Shreya Singhal**, it was concluded that the fundamental right under 19(1)(a) is also applicable to speech and expression through the medium of the internet. *Prima facie*, this conclusion of the court seems obvious and the argument claiming otherwise futile. However, this raises some interesting questions with respect to the applicability of Art.19 (1) (a) to cyberspace. At the heart of the inquiry lies distinction between these two propositions: (A) Article 19(1)(a) is applicable to cyberspace, and (B) Article 19(1)(a) is medium-neutral. While the first proposition is limited to mere 'applicability' of Article 19(1)(a), the second proposition would also mean that the 'same standard' to be applied to all the media. The question then arises is, can the holding in *Shreya Singhal* be extended to conclude that the right to freedom of speech and expression is medium neutral?

The distinction between these two propositions will affect the cyberspace free speech jurisprudence in years to come as cyberspace poses new challenges to free speech jurisprudence. In order to understand the distinction, I propose to look into the arguments raised by the respondents and the petitioners respectively in the hearings.

Shreya Singhal: What about the Medium

While respondents unsuccessfully challenged the applicability of Article 19(1)(a) to cyberspace, the petitioners argued that creating special offences and lowering procedural safeguards for the Internet medium and thus distinguishing the medium of internet from other media violate Art.14 as there *"intangible differentia between those who use the internet and those who by words spoken or written use other medium of communication"*.²⁰

These two arguments were made in two different contexts: the respondent's argument pertained to the application of Article 19, while petitioners' arguments pertained to treating these mediums equal under Article 14. The court clearly rejected the respondent's contention holding that control over electronic medium *"can only be exercised within the framework of Article 19(2) and the dictates of public interests. To plead for other grounds is to plead for unconstitutional measures."*²¹ At the same time, the court also conceded that electronic medium may warrant a greater regulation over licensing and control and vigilance on the content of the program telecast.

In response to the petitioners' arguments about Article 14 violation, the court held that the Internet can be distinguished from other mediums and that there is intelligible differentia between the Internet and the other mediums. In order to hold that Internet is a distinct medium, the court relied on the following factors: *"global reach of Internet", "impossibility of pre-censorship" as everyone can publish their own content, "possibility of the use of new technologically advanced methods to modulate the content", "lack of code of ethical conduct" and "individualized production"* (of the content). Further, when it was argued that the procedural safeguards available for similar offences committed through non-internet media such as newspapers etc. (under Indian Penal Code) are not available for the offences under the Information Technology Act, the court held that *"[t] his procedural safeguard does not apply even when a similar offence may be committed over the internet where a person is booked under Section 66A instead of the aforesaid Sections [Offences under the IPC]"*.²² Therefore, the court allowed harsher punishments and lower procedural safeguards with respect to the medium of speech and expression.

Content that needs to be Regulated

Alok Mittal, the chief of the National Investigation Agency (NIA) has said²³ that every sixth cybercrime in India is committed through social media. The National Crime Records Bureau (NCRB) show around 70% rise in cybercrimes annually between 2013 and 2015. In comparison, theft and robbery, which account for the highest incidences of crime in India, show an annual growth of 17-18%. And according to NCRB 2016 report 10 major reason of crime is felling of revenge, for blackmailing, sexual harassment, to defamation, for humiliate the women, so after this report, it is visibly represented that social networking websites are highly misused by sophisticated criminals, and it became a weapon of crime. So it is very necessary to put some regulation on SNSs. If we put a light on art. 19(2) Of constitution and social media together it is shown that these type of content need to be restricted-

Hate Speech

The word hate speech is made by two words hate and speech. The former word hate reflects an extreme negative feeling and opinion about a particular individual, groups of individual, the follower of specific belief because of their religion, sect, faith, gender, ideology race, region, etc. The term hate speech will be understood as covering all forms of expression that spread, incite, promote or justify racial hatred, xenophobia anti-Semitism or other of hatred based on intolerance including intolerance expressed by aggressive nationals and discrimination and hostility against minorities, migrants, and people of immigrant origin.²⁴ So in light of above definition any content which may insult or to attempt to insult the religion, faith, sect, religious belief, ideology of a class of citizen (but it also necessary that said content must be uploaded or prepared with the malicious and deliberate intention to outrage the feeling of that particular groups of citizens. It also includes any content which is prepared to rage hatred about the

national of the particular country or any comment about the religion, nationals or leaders of the country which may cause to harm the peaceful relationship with that country. It also includes any content which incites to any particular class of citizen to do violence or any other type of protest against the government and which may disturb peace and harmony between the deferent class of people, create a tension between values of liberty, equality dignity. Section 66-A of information technology act which struck out after the case of Shreya Singhal was dealing with the hate speech that provided the punishment for sending grossly offensive messages

A minute perusal of the provision clearly indicates that there is an inherent inconsistency between the phraseology of Section 66A and Article 19 (1) (a) of the Constitution, which guarantees freedom of speech and expression to every citizen. Under Article 19(2), restrictions on freedom of speech and expression are reasonable if they pertain to any of the listed grounds, such as sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence. But under Section 66A, restrictions have been placed on freedom of speech and expression on several other grounds, apart from those mentioned in the Constitution.

There are several anomalies in the provision, which are inconsistent with free speech requirements. Words like "grossly offensive", "menacing character", "annoyance", "danger", "obstruction", "insult" and "injury" do not have any precise definition. A prominent question that has been left unanswered is whether these words are to be construed with regard to the sensibilities of the particular person the words are addressed to or as per that of a reasonable man. Going by the sensibilities of particular individuals, it is most likely that even authors of innocent communication through e-mail could be accused of having violated the law.

The first instant or threat of danger create and public disorder by SNSs was visible in August 2012 when a message of threat circulate in Pune, Channai, Benguluru and other states where the peoples of North East was lives in high number because 32 Muslims were killed by Bodo militants in Assam, After that circulation of that massage thousands of personals from the north east were returned to their home and felled these cities fearing from their safety. And the role of social media in Mujjafarnager riots in 2014 is not hiding to anyone. The main reason of Mujjafarnager riots was circulation of the video of the brutal murder of two men by the mob and because of those video, revenge against the Muslims were started in the whole district which result into the genocide on a very large scale. Mohsin sheikh a 28 year old IT killed by mob professional in Pune because of some allegation that he uploaded some objectionable picture of shiva ji, Sambha ji maharaj and Bal Thakrey is an another instance to prove that sometime social media websites may

become very harmful to the public order safety of the state, and life of the peoples.

Pornography

The word Pornography is derived from the Greek word 'porni' meaning prostitute and 'graphin' meaning to write. Pornography thus was originality defined as any work of art or literature depicting the life of prostitute. In present time, it denotes the depiction of sexual behavior in books, pictures, statues, motion pictures, and other media that is intended to arouse sexual excitement in its audience. It includes graphically sexually explicit content which tends to demean and dehumanise the human being mostly women and children into sexual being. Pornography as a visual misrepresentation of sexuality distorts an individual's concept of sexual relations by objectifying them, which, in turn, alters both sexual attitudes and behavior. Section 67-A of IT Act 2000 dealing with the pornography. According to study sex industry, including pornography, is one of the largest and most profitable industries in the world and pornography industry is bigger than the top technology companies combined Microsoft, Google, amazon e bay, yahoo, apple, Netflix and Earthlink. A statics says that every second about 3000 dollars are being spent on pornography around the world, every second 28258 internet users are viewing pornography, every second 372 internet user are typing about search term in search engines and. Every 39 min a new pornographic video is being created alone in the United States. A survey in India also reveals the same picture close to 47% of Indians log on to porn sites from their desktops, while another 50% use their mobile phones to view pornography. Indians make up for the fifth highest number of daily visitors to the porn site.

Child Pornography

Child pornography involves photographs and films of children that are sexually explicit. Sexually explicit conduct may include sexual intercourse bestiality, masturbation and 'exhibition of the genitals'. Etc. It can also be defined as the visual depiction of minor children under the age of 18 in the various sexual acts. Child pornography is banned all over the world. It is most despicable form of child exploitation or crimes against children .it is different from other crime because it as happens it involves a crime being committed. The children are the picture is subjected to horrific sexual act including beating, burning and other forms of sexual depravities. Every pornographic picture of a child involves a suffering.

Section 67B deals with children and punishment for the transmission of sexually explicit images or text, cultivating relationships with children online or facilitates the abuse of children online, records abuse in an electronic form and transmits it, etc. Children, for the purposes of the Internet or mobile media, are defined as being below 18 years of age.

Sec. 67 (B) - Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc. in electronic form.-
Whoever,-

- (a) Publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or
1. creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or
 2. cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or
 3. facilitates abusing children online; or
 4. records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with a fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that the provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting, representation or figure in electronic form-

1. The publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or
2. Which is kept or used for bona fide heritage or religious purposes.

Explanation

For the purposes of this section, "children" means a person who has not completed the age of 18 years.

Subversive Information

Subversion means overthrowing something, like a government or law, or it can mean corrupting someone's personal morals, like making a vegetarian eat bacon by tricking her. The Latin root *subvertere* means "to turn from below," and when you turn something on its head in a sneaky way, that's *subversion*. Imagine digging a hole in the ground, then covering the hole with a layer of sticks and leaves. When someone walks on it, they fall in. That's the basic idea of subversion, attacking from below. People often use subversion to take down a corrupt government, and acts of subversion are a powerful way to protest injustice. A South Indian actress Deelip was arrested by the police in connection with the sexual assault on a famous film actress. First two days after the arrest. Social media was flooded with the angry message and new allegation against him but all of a

sudden, the news feeds of Malayali netizens have been through a turnaround as a campaign in his support started flowing from several online news portals and social media profile. And in this case, social networking websites were used as whitewash to paint an offence. – Nowadays a YouTube video by Vikas Varala accused in Vartika Kundu molestation case is another example of subversive advocacy. In which he is trying to do self-victimization. Another big issue related to subversive advocacy is the use of social networking website by the political parties to advertise himself and spread rumors about the opposition. Political fake news has become a key term of 2017 brought in to the trend after the United State presidential election. It was clear that thousands of users of a social networking website were unintentionally sharing an article full of misinformation. In my opinion, this type of content may mislead the voters and against the right to know of voters. After the Trumps incident, Facebook decided to launch a new click button. The work of that button is whenever anyone will see any news and want to know about the source of news. They will click on that sign button and that sign button will provide the full details about source and origin of that information. But Facebook itself admitted that this practice is not very easy to do and maybe they will not be able to provide the accurate details.

Identity Theft

Identity theft is another problem in front of the social networking website. It is well known that social networking websites generate revenue through the advertisement and different types of survey apps. The user of that social networking website uses that apps only for fun like to know about his friends, his family, and future predictions. But those types of apps execute on some terms and conditions. Firstly those apps make access to the personal information of the user and then conclude the result. In this procedure user itself indirectly provides the permission to the app to login with his account but user doesn't know about that they may accumulate his personal information and second thing The most of user normally post more than enough information about their personal and professional life and some anti-social elements or anti-national elements easily compile that information and create a fake profile that looked exactly similar to the genuine or authentic. The other users who know the genuine one may provide an opportunity to the creator of the fake profile to gain information about the genuine one and other ones who are in touch with the previous user and because the social networking website's user believes that they are sharing information with the genuine one. They often provide plenty of details to the creator of a profile. Section 66 of IT Act 2008 provides punishment for identity theft.

Intellectual Property Right Issues

Intellectual property issue related to social networking website Content issue related to trademark infringement and dilution issues, copyright, copyright infringement issues and trade secret disclosure. In nowadays marketing of products brings in to the trend on social media. Anyone make a quick search for any brand name on Facebook reveals

number of results of the same name. The prevalence of various page of the same name and trademark often attempt to vanish the Goodwill of the original brand. For example news of fried red served instead of chicken of in KFC had top 10 trending in Facebook after man complaint about this in California. But later it was found to be a deliberate attempt to vanish the Goodwill of KFC²⁵. There is very little measure to prevent an entity or a person from adopting a username or sub domain name that incorporates others registered trademark or trade name. Taking remedial action also problematic from the owner of trademark. In addition to it there is also lots of uncertainty is over the use of Trademark in social networking websites and another issue that is current Trademark law and information technique adequate to deal the trademark issues on social networking sites.

Copyright Infringement

The copyright act 1957 governs the laws and rules related to copyright in India. Copyright is an intellectual property right which given to the creator of artistic, literally, musical work, photographers and producer of Cinematography film and sound recording. Each and every user on social networking websites Is a publisher of his problem The copyright issues arise when a person Post his picture which is captured by him on a social networking account but later on that picture remain in the memory of social networking websites even after its deletions by the user and they never deleted it .

Conclusion and suggestions

Freedom of Speech and Expression is our fundamental right, but speech mustnot be a type which creates a danger of the peace, harmony and sovereignty of the state and not against the prevailed standard of morality and decency. It also not endangers the public order of the state. The government must take into consideration the established principles of constitutional protection pertaining to freedom of speech and expression under Article 19(1) of the constitution. Of course, this is not an absolute right and is subject to certain reasonable restrictions that are allowed under Article 19(2) of the constitution of India and need to be enforced in the interest of the sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency and morality and contempt of court, defamation and incitement to an offence. In this process the Department of Information and Broadcasting and Telecom marge under same laws. Any speech or expression come within the grounds provided by Art 19 (2) of The Constitution of India should be regulated either it belongs to any medium.Easy reachability of social networking websites and access to the public and number of users of it makes the social networking websites very sensitive area for regulation. So it is very necessary to regulate the content which came within the domain of Art-19(2). Some problems are defined in this paper are Individualistic in nature and some affect Society at large. It is not like that All problems are unaddressed by law. all types of content are addressed and punishable in different laws like hate speech, pornography, obscenity, fraud by personation is

define and punishable under the IPC and Trademark and copyright issues governed by The Trademark and Copyright Act And almost categories of aforesaid content are also defined and punishable by IT Act 2000 but define and punishment is not the single solution of all these content related issues. Punishment is a secondary issue because any content which incorporates hate speech or subversive information is viral then it creates a great danger to the harmony, peace and security of the nation. It may result in the gross public violence. Same as fake profile also create a great danger to the security of the state because it may be possible that creator of that fake profile belongs to terrorist group and by the personation of other person he can easily reachable to the lots of information by the friends of that person And may able to create a great danger to the security of state. So in my opinion regulation of above content is more important than punishing the criminal after the fierce loss. IT Act 2000 does not provide any clear picture about regulatory procedure and regulation mechanism so it would be necessary to redraft IT laws with including effective regulation procedure. According to IT rules that ISPs remove the offensive content within the 36 hours of the notice received. They have been given the power to block the access of content generator. The generator of the content is not notified about the removal of this content. Exercise of this power may be Necessary by the ISPs in some circumstances but in the absence of proper judicial mechanism it also increase privately administered injection to the censor free speech and expression So It is very important the IT Act should be amended and a legal policy should be adopted to regulate the content on social networking websites. I want to suggest that right duties and responsibility of social media agencies, Companies should be clearly defined and mark towards the user. It is necessary that the social networking websites should start introspecting their functioning. In the present time social networking sites are regulating their functions voluntary and on his own term and condition which varies from site to site. To bringing consistency in rules and regulation it is necessary that the functioning of social networking websites should be regulated by the law and social networking sites must have the preventive mechanism to stop thepotential victimization of the user. It is also quite clear that the approach of the government in regulating social networking site is seen as an attempt to encroach the freedom of speech and expression in cyberspace. In order to bring reasonableness, it is very important to establishment of a dedicated body Responsible for governing social media. There is an imminent need that the government should formulate a strategy And Mechanism for effectively dealing with the cases in which that a great mischief spread over a considerable part of the nation.This may lead to effectively tackle with those situations which occurred in Muzaffarnagar riots and Northeastern mass exodus.“The government can go forward with reasonable and judicious restrictions, but the harmonious equilibrium between freedom of speech

and reasonable restrictions is something that the government has to achieve.”

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4. Art 19 of UDHR, The UDHR holds that " everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers" . The ICCPR holds that, " everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".
5. *Freedom Of Expression Toolkit: A Guide Students*, 2013, 1-86, at 16, available on the Web, URL: <http://unesdoc.unesco.org/images/0021/002186/218618e.pdf>., accessed on 14/4/16
6. Radha Mohan Lal V. Rajasthan High Court (2003)3 SCC 427
7. Menka Gandhi V. Union of India AIR 1978 SC 597
8. AIR 1950 SC 124
9. Paranjoy Guha Thakurta, *Media Ethics* (New Delhi: Oxford University Press, 2012), p. 354.
10. "Social Media", available on the Web, URL: http://en.wikipedia.org/wiki/social_media, .
11. "Social Media Framework Draft for Public Consultation", available on the Web, URL: http://www.indiaenvironmentportal.org.in/files/file/SocialMediaFrameworkDraftforPublicConsultation_192011-
12. Andreas M. Kaplan & Michael Haenlein (2010), "Users of the World, Unite! The Challenges and Opportunities of Social Media", *Business Horizons*, vol. 53, 2010, pp. 59-68, at 61.
13. *Ibid.*, at 61
14. *Ibid.*, at 60–61 (noting that Web 2.0 may be contrasted with Web 1.0 platforms, which simply provide content to users without giving them the opportunity to interact with or modify the information online). ,
15. "Freedom of Expression Everywhere", available on the Web, URL: <http://www.ohchr.org/EN/NewsEvents/Pages/Freedomofexpressioneverywhere.aspx>, accessed on 5/4/13.
16. Report of the Special Rapporteur on Key Trends and Challenges to the Right of All Individuals to Seek, Receive and Impart Information and Ideas of All Kinds through the Internet, 2011, UN General Assembly Doc. A/HRC/17/27. This Report is also available on the web, URL: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/132/01/PDF/G1113201.pdf?OpenElement>.
17. "Freedom of Expression and New Media", available on the Web, URL: <http://www.ohchr.org/EN/NewsEvents/Pages/FreedomExpressionandnewmedia.aspx>,
18. *ibid*
19. *ibid*
20. *ibid*
21. *Pera 28 id* .("As stated, all the above factors may make a distinction between the print and other media as opposed to the Internet and the legislature may well, therefore, provide for separate offences so far as free speech over the Internet is concerned. There is, therefore, an intelligible differentia having a rational relation to the object sought to be achieved – that there can be creation of offences which are applied to free speech over the internet alone as opposed to other mediums of communication. Thus, an Article 14 challenge has been repelled by us on this ground later in this judgment. While it may be possible to narrowly draw a Section creating a new offence, such as Section 69A for instance, relating only to speech over the internet, yet the validity of such a law will have to be tested on the touchstone of the tests already indicated above."
22. *Pera 99id*
23. NCRB Report 2017
24. Mapping study on project a giant hate speech online institute of HR (British institute of HR 2 APRIL 2012)
25. Shikha Sharma, 'KFC Fried Rat Story turn out to the deliberate attempt to tarnish KFC brand